

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

William Charles Graham,

File No. 23-cv-839 (ECT/ECW)

Petitioner,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

United States of America,

Respondent.

This case is before the Court on a Report and Recommendation issued by Magistrate Judge Elizabeth Cowan Wright. ECF No. 3 (“R&R”). Magistrate Judge Wright recommends dismissing the action without prejudice under Fed. R. Civ. P. 41(b) for failure to prosecute because Graham did not pay the filing fee for the matter or apply for in forma pauperis (“IFP”) status. *Id.* at 1. Magistrate Judge Wright further noted that even if Graham had elected to do so, dismissal was also warranted because venue is improper in this District when Graham is detained in Kentucky. R&R at 2; *see also* <https://www.bop.gov/inmateloc/> (last visited May 15, 2023). Graham filed a one-page objection, including a copy of his request to the Bureau of Prisons to withdraw the \$5.00 filing fee from Graham’s account, along with a request that the Court transfer his application to the correct venue pursuant to 28 U.S.C. § 2241(b). ECF Nos. 4, 5. Respondent did not file a response to Graham’s objections. The Clerk’s Office has yet to receive Graham’s filing fee.

Because Graham has objected, the Court is required to review the Report and Recommendation de novo pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b)(3).

The Court has undertaken that de novo review and has concluded that Magistrate Judge Wright's analysis and conclusions are correct. Magistrate Judge Wright correctly concluded that even if Graham paid his filing fee or properly filed for IFP status, this District is not the correct venue for Graham's § 2241 habeas petition when Graham is detained in Kentucky. *See* R&R at 2; 28 U.S.C. § 2241(a); *Gilmore v. Martin County Sheriff Dept.*, No. 22-cv-2443 (MJD/TNL), 2022 WL 18495818, at *1 (D. Minn. Oct. 12, 2022) (quoting *Wyatt v. United States*, 574 F.3d 455, 460 (7th Cir. 2009)). Therefore, based on all the files, records, and proceedings in the above-captioned matter, **IT IS ORDERED THAT:**

1. The Objections to the Report and Recommendation [ECF No. 4] are **OVERRULED**;
2. The Report and Recommendation [ECF No. 3] is **ACCEPTED** in full;
3. This action is **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 15, 2023

s/ Eric C. Tostrud
Eric C. Tostrud
United States District Court